

This letter rescinds part of General Information Letter ST 04-0216-GIL and clarifies that the date of delivery of qualifying graphic arts machinery and equipment will determine if a purchase qualifies under the reinstated graphics arts machinery and equipment exemption. (This is a GIL.)

March 14, 2005

Dear Mr. Xxxxx:

This General Information Letter is being sent to you to rescind part of a General Information Letter (ST 04-0216-GIL) that was sent to you on November 29, 2004. A General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In our previous letter, we discussed the various tax liabilities for graphic arts equipment and machinery related to reinstatement of the exemption for qualifying equipment. For ease of clarification, I have included your original inquiry as follows:

Our company rebuilds used printing equipment and sells it to printers as an alternative to new equipment. For years we were operating under the graphic arts exemption within Illinois and not having to charge sales tax on equipment sold to customers within Illinois. With the repeal of the exemption, sales of our equipment became taxable. Now that the exemption has been reinstated we seek clarification on the following questions:

1. The date range for which equipment of this type will be taxable is July 1, 2003 through August 31, 2004 ?
2. What constitutes purchase date? Is it the date the contract is signed or the date the equipment is shipped?
3. If a contract is signed within the date range indicated in # 1 above, but the equipment ships after September 1, 2004 is the sale taxable?
4. If a customer has made progress payments, which include sales tax, on a project up until the date of re-instatement, but at the date of reinstatement the equipment has not yet shipped, is the customer entitled to a refund of taxes paid up to that point?

The questions above really all ask the same question, that is, for equipment sales made during the repeal period July 1, 2003 to August 31, 2004, are there any circumstances under which a customer would be entitled to a refund of sales taxes paid on the purchase of equipment which qualifies for the graphic arts exemption?

If you have any questions or need to speak with me directly I can be reached at ##.

DEPARTMENT'S RESPONSE:

Upon further review of the issues raised in your letter, we are clarifying and rescinding part of the response previously issued to you (ST 04-0216-GIL).

Through June 30, 2003, the Retailers' Occupation Tax did not apply to retail sales of machinery and equipment to be used in graphic arts production. See 86 Ill. Adm. Code 130.325. The exemption for retail sales of graphic arts machinery and equipment was repealed, effective July 1, 2003, and was once again reinstated, effective September 1, 2004.

An emergency regulation has been instituted, to reinstate the exemption for sales of machinery and equipment used in graphic arts production from Retailers' Occupation Tax liability. The sale of machinery and equipment to be used in graphic arts production is not subject to Retailers' Occupation Tax liability, effective September 1, 2004. Please see the Department's Emergency Regulation 86 Ill. Adm. Code 130.325, which may be viewed on the Department's internet website.

The Department's regulations found at 86 Ill. Adm. Code 130.101(c) state that when something that has been exempted becomes taxable as to sales that are made on or after some particular date, the date of sale will be deemed to be the date of delivery of the property. This is true even if such delivery is made under a contract that was entered into before the effective date of the new tax. The reverse is also true when applied to something taxable, which later becomes exempt.

Consistent with how the Department treats property that was exempt, which then becomes taxable under the Retailers' Occupation Tax Act, the Department's emergency regulation regarding the Graphic Arts Machinery and Equipment Exemption directs that a sale of such property will be deemed to be made as of the date of delivery of such property. See Emergency Regulations 86 Ill. Adm. Code 130.325.

For example, if qualifying graphic arts equipment was delivered prior to September 1, 2004, for which payments were still being received after that date, then the entire sale, including all payments relative thereto, would be subject to Retailers' Occupation Tax liability. However, if qualifying equipment was delivered on or after September 1, 2004, then Retailers' Occupation Tax liability is not incurred on the payments received prior to September 1, 2004, and, in addition, not incurred on the payments received on or after September 1, 2004.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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